

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF THE JOINT)
APPLICATION OF THE PARTIES TO)
REVISED SETTLEMENT AGREEMENT)
II IN DOCKETS NO. 91S-091EG AND NO.)
90F-226E FOR COMMISSION)
CONSIDERATION OF DECOUPLING)
REVENUES FROM SALES AND) DOCKET NO. 91A-480EG
ESTABLISHMENT OF REGULATORY)
INCENTIVES TO ENCOURAGE THE)
IMPLEMENTATION OF DEMAND-SIDE)
MANAGEMENT PROGRAMS.)

**COMMISSION ORDER: (1) ALLOWING BRIEFS TO BE FILED BY NOON ON
WEDNESDAY JULY 29, 1992; (2) SETTING FURTHER WORKING SESSION
FOR FRIDAY JULY 31, 1992 AT 1 P.M.; and, (3) GRANTING VARIOUS
MOTIONS FOR EXTENSIONS OF TIME AND PSCo's MOTION
FOR RECEIPT OF ADDITIONAL EVIDENCE.**

Mailing date: July 23, 1992

Adopted date: July 13, 1992

This matter came on for consideration before the Colorado Public Utilities Commission ("commission") at Special Working Sessions on July 7, 1992 and July 13, 1992.

The evidentiary hearings in this docket commenced on Tuesday June 2, 1992, and concluded on Wednesday June 10, 1992. On June 29, 1992, the commission received nine filings -- Posthearing Statements of Position from: (1) Climax Molybdenum Company; (2) Public Service Company of Colorado, (3) the Colorado Office of Consumer Counsel; (4) the Land and Water Fund of the Rockies and the Colorado Office of Energy

Conservation (joint statement of position); (5) the Multiple Intervenors¹; (6) the Colorado Business Alliance Against Unfair Utility Practices; (7) Tri-State Generation and Transmission Association, Inc.; (8) the Colorado Rural Electric Association; and, (9) WestPlains Energy, a division of UtiliCorp United, Inc. On June 30, 1992, Colorado Interstate Gas Company filed its Statement of Position. On July 2, 1992, the Staff of the Commission filed its Statement of Position, as did CF&I Steel Corporation. The parties that filed late statements of position had filed motions for extensions of time, which we grant nunc pro tunc. Public Service Company of Colorado filed a motion for receipt of additional evidence on June 22, 1992, which we hereby grant.

On July 2, 1992, as requested by the commission, several parties filed a proposed Draft Commission Opinion ruling on the decoupling application. On one side, Public Service Company of Colorado, the Colorado Office of Consumer Counsel, the Staff of the Colorado Public Utilities Commission, Multiple Intervenors, and CF&I Steel Corporation filed a joint opinion, proposing that the commission reject Public Service Company's decoupling proposal. (Multiple Intervenors filed separate proposed findings with the commission, in addition to joining the joint opinion.) On the other side, the Land and Water Fund of the Rockies and the Colorado Office of Energy Conservation filed a proposed Commission decision and order, proposing that the commission accept decoupling.

In Decision No. C92-784 (June 12, 1992), the commission announced a special working session on July 7, 1992, for the Commissioners to deliberate on the final decision. Under the State Open Meetings Law, the commission must deliberate in public meetings whenever two or more of its members discuss public business. See Colorado Revised

¹. The Multiple Intervenor group is composed of several large industrial electricity users: Anheuser-Busch Companies, Inc.; Conoco, Inc.; Holnam, Inc.; IBM Corporation; and Liquid Air Corporation. The law firm of Holland & Hart represents the Multiple Intervenor group.

Statutes § 24-6-402(2)(a) (1991 Cum.Supp. Vol.10A). Due to the number of late-filed pleadings and the July 4th Independence Day holiday, the commission's advisors were unable to review all the filings and complete an analysis for the commissioners by the July 7, 1992 meeting.

Nevertheless, the commission held the July 7, 1992 Special Open Meeting as scheduled. The commissioners indicated their initial views of the decoupling application. Commissioner Alvarez expressed an initial inclination to support the decoupling proposal, while Commissioner Nakarado stated that he was concerned about the opposition to decoupling from many of the major parties in the docket. The commission set another special working session for Friday July 10, 1992, which was canceled due to an unforeseen family emergency. The special working session was held on Monday July 13, 1992 at 8 a.m.

II. Discussion.

At the July 13, 1992 special working session, the commissioners heard reports from their advisors, who were split on the merits of decoupling. Commissioner Nakarado expressed several concerns about the decoupling proposal. He indicated that he was considering not supporting decoupling at this time; Commissioner Nakarado would consider directing the Staff of the Commission to address the decoupling proposal in two to three years. Commissioner Alvarez announced that she felt it was in the public interest to grant some form of decoupling mechanism now, rather than to wait. Although Commissioner Alvarez was unwilling to decide the details of the incentive proposals to accompany decoupling, she urged Commissioner Nakarado to approve the principle of decoupling. At the conclusion of the Special Working Session, the advisors listed some advantages and disadvantages of adopting decoupling now.

a. Merits of adopting decoupling now versus addressing the issue after the integrated resource planning process has been fully implemented.

In order to allow the parties to react to the discussion, and to cite the Transcript, the commission will discuss the advantages and disadvantages of decoupling now, as mentioned at the July 13, 1992 Special Working Session.

1. Later - advantage of later consideration of decoupling.

If the commission does not adopt decoupling now, the commission might have better information in two or three years. If it is not critical to act now, a future Colorado Public Utilities Commission in two or three years would have more data from our integrated resource planning process, and from the revenue-per-customer decoupling experiments at Central Maine Power and Puget Sound Power & Light Company, which could lead to a higher quality decision in Colorado. Further, it may not be necessary to adopt decoupling now as a means to "get the ball rolling" for demand side management. In the next few years, Public Service Company of Colorado may find demand side management the most profitable option even without decoupling.

Commissioner Nakarado's position is that -- if the commission takes certain actions -- decoupling appears to be an unnecessary step to ensure that all cost-effective demand side management measures are implemented over the next two to three year period. The commission could adopt a strict integrated resource planning rule, which would result in no new supply source certification absent a strong showing that new supply is in the public interest. The commission could modify the electric cost adjustment clause so that PSCo does not profit from purchased power. The commission could revisit the appropriateness of the requirement that 20% of Public Service Company's firm load obligation be purchased from qualified facilities, in light of the integrated resource

planning process. Taken together, these actions would make decoupling unnecessary to encourage demand side management, at least in the near term, in the view of Commissioner Nakarado.

This is especially so given that the Company is dependent on purchased power (as much as 30-40% of PSCo's supply of electricity currently comes from purchased power). Commissioner Nakarado argues that the Company can make a greater profit on demand side management than on purchased power, under these assumptions, and may naturally choose demand side management, where demand side management is appropriate. If the factual situations -- concerning purchased power and the other supply-side pressures -- are correct, Commissioner Nakarado argues that there will be no lost opportunities in the next few years, and the commission can delay decoupling, await a greater consensus of the parties, and prevent a possible political backlash against decoupling or other aspects of integrated resource planning and energy efficiency measures.

Commissioner Nakarado believes that, during the next few years, Public Service Company of Colorado can reasonably be expected to continue to implement demand side management measures without significant lost revenue concerns, which is the fundamental reason for adopting decoupling in other jurisdictions, and as argued here. During the next few years, Commissioner Nakarado argues that we will gain important information from our integrated resource planning process, and also learn from other states which have adopted the revenue-per-customer decoupling method, and may determine whether the revenue-per-customer decoupling method has unintended adverse consequences.

The various participants in this process in Colorado have demonstrated a generally cooperative approach to date, and Commissioner Nakarado argues that it is important to continue to build this cooperative approach. With so many parties in opposition to decoupling at this time, Commissioner Nakarado is concerned that the PUC's action in

forcing the adoption of decoupling -- in the absence of compelling evidence requiring such action -- might jeopardize this cooperative spirit which the commission has so carefully nurtured over the last few years.

2. Now - advantages of decoupling now.

Commissioner Alvarez and some advisors argue that the advantages of decoupling now include sending a strong signal to Public Service Company of Colorado that it is in a new business -- the business of providing energy services, not solely the business of selling power. From PSCo's initial position supporting revenue-per-customer decoupling in its Application and at the evidentiary hearing, to its current Post-Hearing Statement of Position opposing decoupling, Public Service Company of Colorado has demonstrated that it may be "sitting on the fence," as the Land and Water Fund of the Rockies and the Office of Energy Conservation characterize the Company's position, with "one foot in the past and one foot tentatively in an energy services future." Joint Statement LAW Fund and the OEC at 4 (June 29, 1992). If the commission ordered decoupling now, Public Service Company of Colorado's transition to an energy service future would be assisted and perhaps accelerated. The information factor may cut in favor of decoupling now.

Commissioner Alvarez argued that PSCo's efforts to date in demand side management are laudable and encouraging. Further, the importance of cooperation among the parties cannot be gainsaid. Commissioner Alvarez, however, is convinced that the parties' rejection of decoupling now cannot rationally be based upon concern over inadequate evidence supporting decoupling, so much as upon an understandable need to buy time to position for the inevitable. The record in this docket convincingly points out the importance of a decoupling-type mechanism to obtain from PSCo its substantial, broad-scoped, long-term, sustained experimentation and full commitment to demand side management.

Commissioner Alvarez is deeply concerned about the potentially devastating consequences of the parties' argument that the commission should not act absent an impending crisis. Commissioner Alvarez pointed to the evidence showing that at the time of crisis, there is a risk in that PSCo's ratepayers and shareholders may have to pay for both new supply and demand side management. This is true affording even a conservative interpretation of Exhibit I to PSCo Witness John M. Williams' Direct Testimony (filed January 17, 1992). Williams' Exhibit I shows that the commission must begin the approval process for repowering Fort St. Vrain in 1994 (4-year lead time); and must begin the approval process for Pawnee II (8-year lead time) in 1993. See PSCo Witness Williams Direct Testimony Exhibit 1 (Supply-only scenario) and Transcript of Decoupling Evidentiary Hearings June 3, 1992 at 162 (Cross-examination of Mr. Williams by Mr. Blank of the LAW Fund). Such failure of foresight and responsibility will be costly in human terms and in future dollars, which are more compelling than mere political backlash.

Decoupling now has advantages to the Company of eliminating risk as it embraces the future and provides needed leadership in this area. Consensus may not move us forward. The ratepayers benefit from a reduction of -- and ultimate elimination of -- the amount of incentive needed to encourage demand side management. In sum, it may make sense to harmonize the interests of PSCo's customers in the provision of least cost energy services with the financial interests of PSCo's shareholders, by adopting decoupling now.

b. Optimal demand side management cost adjustment clause under two assumptions.

On another matter, the commission would like comment from the parties on the optimal adjustment of the demand side management cost adjustment clause, under both the assumptions that decoupling will be adopted, and the assumption that decoupling will not be adopted. Staff has indicated that the signatories to the Joint Proposed Finding will file by July 29, 1992, a proposed revision to the demand side management cost adjustment clause, under the assumption that the commission would not order decoupling. The commission is requesting that the all parties be asked to participate, and that both decoupling and no-decoupling possibilities be considered.

c. Timing of Revised Settlement II deadlines.

Finally, James K. Tarpey, one of the attorneys for Public Service Company of Colorado indicated that the Company may not need a decision on decoupling prior to filing its November 2, 1992 Rate Case. The commission wishes to give all parties an opportunity to comment on the possibilities of adjusting the deadlines set in Revised Settlement Agreement II. At this time, the commission, however, plans to issue its final decision in this docket on August 14, 1992, as originally scheduled.

THEREFORE THE COMMISSION ORDERS THAT:

1. The Colorado Public Utilities Commission will hold a special working session to deliberate on the final opinion in this docket, the Decoupling-Incentives Docket, Docket No. 91A-480EG, on Friday July 31, 1992 at 1 p.m. (canceling the afternoon Open Meeting). The special working session set in Decision No. C92-784 for Monday August 10, 1992 at 9 a.m. will be held as scheduled. The special working sessions will be held at the Commission's Hearing Room "A," 1580 Logan Street, Office Level 2, Denver, Colorado 80203.

2. In advance of the Special Working Sessions, the commission will allow parties to file briefs addressing the issues discussed herein, with appropriate citations to the Evidentiary Hearing Transcript, Exhibits, and relevant legal authority. The briefs shall address: (1) the merits of the timing of the decoupling decision itself, and the issues discussed herein; (2) appropriate demand side management cost adjustment clause changes, under the alternative assumptions that the Colorado Public Utilities Commission will adopt decoupling, or will not adopt decoupling; and, (3) the need to reach a final decision on decoupling before the November 2, 1992 filing by Public Service Company of Colorado of its next general rate case.

3. The various motions for extensions of time to file statements of position are granted nunc pro tunc. The motion for receipt of additional evidence filed on June 22, 1992 by Public Service Company of Colorado is hereby granted.

4. This decision is effective on its date of mailing.

ADOPTED IN SPECIAL OPEN MEETING July 13, 1992.



ATTEST: A TRUE COPY

Bruce N. Smith
Bruce N. Smith
Executive Secretary

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CHRISTINE E. M. ALVAREZ

GARY L. NAKARADO

Commissioners